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DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 155

CMS-9944-F2

RIN 0938-AS19

Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2016; Correcting Amendment

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; correcting amendment.

SUMMARY: This document corrects a technical error that appeared in the final rule published in the February 27, 2015 **Federal Register** (80 FR 10749) entitled “Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2016.”

DATES: Effective Date: This correction document is effective [Insert date of publication.]

Application Date: The correction is applicable as of April 28, 2015.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2015-03751 (80 FR 10749 through 10877), the final rule entitled “Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2016,” there was a technical error in the regulation text that is identified and corrected in this correcting amendment.

II. Summary of Errors in the Regulation Text

On page 10867 of the HHS Notice of Benefit and Payment Parameters for 2016 final rule, there was a technical error in §155.420(d)(2)(ii). In the preamble, we acknowledged that Exchanges may need more time to implement the necessary functional IT changes, and stated that we were making §155.420(d)(2)(ii) effective January 1, 2017. However, in the regulatory text, we inadvertently omitted the phrase “Effective January 1, 2017 or earlier...” before the phrase “at the option of the Exchange”.

III. Waiver of Proposed Rulemaking and Delay in Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, this notice and comment procedure can be waived if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

Section 553(d) of the APA ordinarily requires a 30-day delay in effective date of final rules after the date of their publication in the **Federal Register**. This 30-day delay

in effective date can be waived, however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued.

This document corrects a technical error in the HHS Notice of Benefit and Payment Parameters for 2016 final rule and is not a substantive change to the standards set forth in the final rule. Therefore, we believe that undertaking further notice and comment procedures to incorporate this correction and delay the effective date for this change is unnecessary. In addition, we believe it is important for the public to have the correct information as soon as possible, and believe it is contrary to the public interest to delay when they become effective. For the reasons stated previously, we find there is good cause to waive notice and comment procedures and the 30-day delay in the effective date for this correction notice.

List of Subjects in 45 CFR Part 155

Administrative practice and procedure, Health care access, Health insurance, Reporting and recordkeeping requirements, State and local governments, Cost-sharing reductions, Advance payments of premium tax credit, Administration and calculation of advance payments of the premium tax credit, Plan variations, Actuarial value.

Accordingly, 45 CFR part 155 is corrected by making the following correcting amendment:

PART 155—EXCHANGE ESTABLISHMENT STANDARDS AND OTHER RELATED STANDARDS UNDER THE AFFORDABLE CARE ACT

1. The authority citation for part 155 continues to read as follows:

Authority: Title I of the Affordable Care Act, sections 1301, 1302, 1303, 1304, 1311, 1312, 1313, 1321, 1322, 1331, 1332, 1334, 1402, 1411, 1412, 1413, Pub. L. 111-148, 124 Stat. 119 (42 U.S.C. 18021-18024, 18031-18033, 18041-18042, 18051, 18054, 18071, and 18081-18083).

2. Section 155.420 is amended by revising paragraph (d)(2)(ii) to read as follows:

§155.420 Special enrollment periods.

* * * * *

(d) * * *

(2) * * *

(ii) Effective January 1, 2017 or earlier at the option of the Exchange, the enrollee loses a dependent or is no longer considered a dependent through divorce or legal separation as defined by State law in the State in which the divorce or legal separation occurs, or if the enrollee, or his or her dependent, dies.

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Dated: June 29, 2015

Madhura Valverde,

Executive Secretary to the Department,

Department of Health and Human Services.

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